

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:      Nationwide Postal Management                                 )  
                Dist. 3, Map 100M, Group A, Control Map 101M,       ) Campbell County  
                Parcel 6.00   )  
                Commercial Property   )  
                Tax Year 2005   )

### INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$97,000	\$324,100	\$421,100	\$168,440

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 1, 2006 in Knoxville, Tennessee. In attendance at the hearing were registered agent W.M.P. Wilson, III and Campbell County Property Assessor's representatives Clark Ford and Brandon Parten.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an office building constructed in 1972 located at 424 Main Street in Jacksboro, Tennessee.

The taxpayer contended that subject property should be valued at \$212,500. In support of this position, the taxpayer argued that its purchase of subject property on May 18, 2005 for \$212,500 should be adopted as the basis of valuation. In addition, Mr. Wilson introduced an income approach he maintained supports a value indication of only \$150,050.

The assessor contended that subject property should remain valued at \$421,100. In support of this position, the property record card was introduced into evidence. In addition, Mr. Ford asserted that the taxpayer's purchase should not receive any weight because subject property was never offered for sale on the open market.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$421,100 based upon the presumption of correctness attaching to the decision of the Campbell County Board of Equalization.



Since the taxpayer is appealing from the determination of the Campbell County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's purchase of subject property cannot provide a basis of valuation for at least four reasons. First, January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). Since the sale did not even occur until May 18, 2005, it is technically irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Second, even if the sale was relevant, the property was never exposed for sale on the open market. According to Mr. Wilson, the sale occurred after the taxpayer approached the seller to inquire whether he was interested in selling the property. Third, the transaction also involved the sale of a property in Wartburg, Tennessee. Fourth, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990);

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that no other comparable sales were introduced by the taxpayer to support its contention that the sale price of \$212,500 was indicative of market value.

Respectfully, the administrative judge also finds that Mr. Wilson's income approach cannot be adopted as the basis of valuation absent additional proof. The administrative judge finds that Mr. Wilson essentially capitalized a single year's actual net operating income at 10%. The administrative judge finds that the procedure normally utilized in the income approach has been summarized in one authoritative text as follows:

Although there are various income capitalization techniques available to the appraiser, certain steps are essential in applying the income capitalization approach. Before applying any capitalization techniques, an appraiser must work down from potential gross income to net operating income. To do this, the appraiser will:



1. Research the income and expense data for the subject property and comparables.
2. Estimate the potential gross income of the property by adding the rental income and any other potential income.
3. Estimate the vacancy and collection loss.
4. Subtract vacancy and collection loss from total potential gross income to arrive at the effective gross income of the subject property.
5. Estimate the total operating expenses for the subject by adding fixed expenses, variable expenses, and a replacement allowance (where applicable).
6. Subtract the estimate of total operating expenses from the estimate of effective gross income to arrive at a net operating income.
7. Apply one of the direct or yield capitalization techniques to this data to generate an estimate of value via the income capitalization approach.

Appraisal Institute, *The Appraisal of Real Estate* at 493-94 (12<sup>th</sup> ed. 2001). Moreover, the administrative judge finds that the Assessment Appeals Commission ruled in *First American National Bank Building Partnership* (Davidson Co., Tax Years 1984-1987) that it “is the entire fee simple unencumbered value and not any lesser or partial interests” which is normally subject to taxation. The administrative judge finds that for all practical purposes Mr. Wilson has valued the leased fee estate for a particular year rather than the fee simple value as of January 1, 2005.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$97,000	\$324,100	\$421,100	\$168,440

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

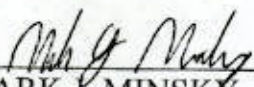


the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of March, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. W.M.P. Wilson III  
Billy Hicks, Assessor of Property